

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46871 of 2024

Arising Out of PS. Case No.-74 Year-2023 Thana- BISHUNPUR District- Darbhanga

Shahbaz @ Shahwaz @ Nawaz Ansari @ Nawaz Son of Md. Habib R/O Vill.-
Shiv Nagar, P.S.- Katra, Dist.- Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bibi Fatima Daughter of Md. Mosibul R/o Village- Narsara, P.S.- Bishanpur,
District- Darbhanga

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar, Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

- 3 19-08-2024 1. Heard learned counsel for the petitioner and Mr. Chandra Bhushan Prasad learned A.P.P. for the State.
2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 376 and 506 of the Indian Penal Code as well as Section 6 of the POCSO Act.
3. The investigating officer of the case in compliance of the order dated 12.08.2024 is present in the Court.
4. The investigating officer of the case, at the outset, submits that despite her best endeavour, she could not meet the informant of the case as she resides in Delhi and does not come to Darbhanga, as such, she is facing difficulty in investigating the case. It is further submitted that from investigation carried



till now, it is clear that it is a case of consensual relationship.

5. Learned counsel appearing on behalf of the petitioner submits that petitioner is a person with clean antecedent.

6. The informant alleges that she had friendship with the petitioner for the last two years. Further, 7-8 months ago petitioner came to the house of the informant when her parents were away and forcefully established physical relation against her will and also clicked some photographs and made videos, thereafter petitioner continued establishing physical relation with the informant several times by threatening to make the photo and video viral. It is further alleged that about six months ago, petitioner and informant entered into a scuffle and petitioner threatened to make her obscene photo viral, thereafter for the last 4-5 months petitioner has been posting obscene photos of the informant on the social platform. It is lastly alleged that when the informant stopped talking completely, thereafter petitioner posted the photos and videos of the informant in the family WhatsApp group of the informant.

7. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. It is further submitted that the relationship was purely consensual



and when the same soured the present false case came to be instituted. It is next submitted that from perusal of the allegation as alleged in the FIR, it would manifest that informant alleges that petitioner had made some videos and had taken photographs and used to threaten that the same would be made viral when the relationship deteriorated and finally the petitioner posted the obscene photographs on the family WhatsApp group of the informant. It is next submitted that the said allegation has been made only to give seriousness to the case when during the course of investigation nothing has come which could even remotely suggest that any photograph or video was taken or the same was made viral.

8. The Court also queried from the investigating officer of the case that as to whether any obscene photograph of the informant was made viral or was put on the WhatsApp group on which the investigating officer submits that she contacted the informant twice or thrice and requested her to come to Darbhanga on which she assured but did not come thereafter it is submitted that even the informant was requested to provide the photographs if any which is alleged to have been made viral but then the same was also not provided.

9. Learned counsel for the petitioner submits that



since there is no photograph as such the informant was not in a position to provide the photographs to the investigating officer of the case. It is further submitted at the cost of repetition that the relationship was purely consensual and when the same soured the present case came to be instituted. It is next submitted that it absolutely does not stand to reason that had the petitioner raped the informant as alleged in the FIR against her will then definitely she would have instituted an FIR when the occurrence took place for the first time but then the same was not done. It is also submitted that petitioner will not abscond rather will cooperate in the investigation.

10. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner but then is not in a position to rebut the submission of the learned counsel appearing on behalf of the petitioner that no photograph during the course of investigation came to the notice of the investigating officer of the case which is alleged to have been made viral.

11. Considering the submissions made by the learned counsel for the petitioner, let the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/-



(Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Bishanpur P.S. Case No. 74 of 2023, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

12. However, if the investigating officer of the case files an application bringing to the notice of the learned court below that petitioner, despite giving assurance to this Court, is not cooperating in the investigation or is not presenting himself as and when required by the investigating officer, the learned court below shall be at liberty to cancel the bail bonds of the petitioner.

13. The personal appearance of the investigating officer of the case is dispensed with.

(Satyavrat Verma, J)

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